

complaint further fails to allege the content of the supposed artificial or prerecorded voice calls, such that it is not possible to determine whether the calls are subject to the TCPA's restrictions.

3. Plaintiff's complaint fails to state the dates and times of the calls, the specific content of the calls, the telephone numbers that allegedly called Plaintiff, the information that was displayed on Plaintiff's caller ID at the time of the offending calls or the telephone number at which Plaintiff received the calls.

4. Federal courts addressing the sufficiency of the allegations in a TCPA complaint require "more than a bare assertion of [the TCPA] elements, looking instead to the plaintiff's factual allegations to determine whether a TCPA claim can be sustained." *Sepehry-Fard v. MB Fin. Serv.*, 2014 U.S. Dist. LEXIS 71568 (N.D. Cal. May 23, 2014) (citing *Kramer v. Autobytel, Inc.*, 759 F.Supp.2d 1165, 1171 (N.D. Cal. 2010)); *see also Strand v. Corinthian Colleges, Inc.*, 2014 U.S. Dist. LEXIS 52963 (W.D. Mich. April 17, 2014) (dismissing a TCPA complaint because "[n]otice pleading, under *Twombly* and *Iqbal*, necessarily requires that a plaintiff plead the telephone number in question to 'raise a right to relief above the speculation level'" (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007))).

5. As discussed in more detail in the accompanying Memorandum, the conclusory allegations in the complaint are inadequate to state a claim upon which relief can be granted and the complaint therefore should be dismissed.

6. The grounds and precedent for this motion are more fully set forth in Enagic's Memorandum in Support of its Motion to Dismiss, filed contemporaneously herewith and incorporated by reference into this motion.

WHEREFORE, Enagic USA, Inc. respectfully requests that this Court dismiss all of Plaintiff's claims against it and that this Court grant such other relief to which Enagic is justly entitled.

Dated: September 18, 2015

RESPECTFULLY SUBMITTED,

/s/ J. Anne Tipps

J. Anne Tipps
STITES & HARBISON, PLLC
401 Commerce St., Ste. 800
Nashville, TN 37219
(615) 782-2200
annie.tipps@stites.com

Katrina L. Dannheim
(*pro hac vice* application to be submitted)
STITES & HARBISON, PLLC
400 W. Market Street
Suite 1800
Louisville, KY 40202
(502) 681-0429
kdannheim@stites.com

Attorneys for ENAGIC USA, INC.

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing pleading has been served on Plaintiff by U.S. Mail on this the 18th day of September, 2015.

Craig Cunningham, *Pro Se*
5543 Edmondson Pike, Ste. 248
Nashville, TN 37211

/s/ J. Anne Tipps
J. Anne Tipps